

REMARKS

Status of the claims:

With the above amendments, claims 44, 64 and 65 have been amended. Claims 26-42, 44, 46, 48, and 50-84 are pending with claims 26-42 and claims 66-84 having been withdrawn from a prior restriction requirement. Thus, claims 44, 46, 48, and 50-65 are ready for further action on the merits. Reconsideration is respectfully requested in light of the following remarks.

Rejections under 35 USC §112, first paragraph

Claims 64 and 65 have been rejected under 35 USC §112, first paragraph as allegedly lacking description. The Examiner asserts that the instant written description does not have support for values that are significantly greater than 5 cm for a WRC value. Accordingly, claims 64 and 65 have been amended to recite upper values of WRC values that both have support in the written description (see Table 1 on page 22 of the written description). It is submitted that with this amendment, the rejection has been obviated. Withdrawal of the rejection is warranted and respectfully requested.

Rejections under 35 USC §103

Claims 44, 46, 48, and 51-65 are rejected under 35 USC §103(a) as being unpatentable over Ross '243 (U.S. Patent 5,525,243). This rejection is traversed for the following reasons.

Present Invention

The present invention relates to a polyolefin-containing fiber carrying at its surface a hydrophobic finish comprising 0.01-1.0% by weight of the fiber. The fiber is comprised of at least one water-insoluble ester of a mono-, di, tri- or tetrahydric alcohol with a molecular weight not exceeding 500 and a branched or straight chain fatty acid with between 12 and 30 carbon atoms.

Disclosure of Ross '243

Ross '243 discloses an aqueous finish composition and process for enhancing the cohesion of fibers and textile materials wherein the composition contains from 7 to 20 weight percent of an antistatic agent, from 0 to 80 weight percent of an emulsifier, from 15 to 50 weight percent of a polyethylene glycol, and the balance, a lubricant.

Ross '243 fails to disclose the fibers of the instant invention that are hydrophobic at their surface.

Removal of the Rejection over Ross '243

Ross '243 cannot render obvious the instant invention because it fails to disclose the elements of the instant invention. In particular, Ross '243 fails to disclose a polyolefin-containing fiber carrying at its surface a hydrophobic finish. Accordingly, Applicants assert that the Examiner has failed to make out a *prima facie* case of obviousness with regard to the 35 USC §103(a) rejection over Ross '432. Three criteria must be met to make out a *prima facie* case of obviousness.

- 1) There must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings.
- 2) There must be a reasonable expectation of success.
- 3) The prior art reference (or references when combined) must teach or suggest all the claim limitations.

See MPEP §2142 and *In re Vaeck*, 20 USPQ2d 1438 (Fed. Cir. 1991). In particular, the Examiner has failed to meet the third element to make a *prima facie* obviousness rejection. Ross '432 does not disclose fibers that are hydrophobic at their surface.

As proof of this, Applicants submit a 37 CFR §1.132 declaration that shows the difference between the hydrophobicity of the surface of the fibers of the instant invention versus the

surface of the fibers of Ross '432. In this declaration by Flemming F. Stengaard, one of the inventors of the instant invention, Mr. Stengaard compared the composition of the instant invention versus the composition of Example VI in Ross '432. The Examiner's attention is drawn to page 3 in the Results section of the Declaration wherein it is shown that the composition of Example VI in Ross has a strikethrough value that is significantly less than that of the composition of the instant invention. Moreover, the $WRC_{nonwoven}$ values in the compositions from Example VI in Ross '432 are also significantly less than the instant invention.

Thus, even if the composition of the fiber surface in Ross '432 were to satisfy the elements of the instantly claimed invention (which Applicants do not concede), the instant invention would certainly show unexpectedly superior properties over the disclosure of Ross '432. Accordingly, Applicants submit that the rejection over Ross '432 is inapposite. Withdrawal of the rejection is warranted and respectfully requested.

With the above remarks and amendments, it is believed that the claims, as they now stand, define patentable subject matter such that a passage of the instant invention to allowance is warranted. A Notice to that effect is earnestly solicited.

If any questions remain regarding the above matters, please contact Applicant's representative, T. Benjamin Schroeder (Reg. No. 50,990), in the Washington metropolitan area at the phone number listed below.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Respectfully submitted,

BIRCH, STEWART, KOLASCH & BIRCH, LLP

By

fe

Raymond C Stewart, #21,066
P.O. Box 747
Falls Church, VA 22040-0747
(703) 205-8000

BS
RCS/TBS/crt

Attachment

VERSION WITH MARKINGS TO SHOW CHANGES MADE

IN THE CLAIMS:

The claims have been amended as follows:

Claim 44. (Amended) A polyolefin-containing [fibre] fiber carrying at its surface a hydrophobic finish comprising 0.01-1.0% by weight of the [fibre] fiber of at least one water-insoluble ester of a mono-, di, tri- or tetrahydric alcohol with a molecular weight not exceeding 500 and a branched or straight chain fatty acid with between 12 and 30 carbon atoms.

Claim 64. (Amended) A fiber according to claim 44, having a hydrophobicity, as measured by the WRC test as defined under the Methods section herein, corresponding to [at least 5] 10.21 to 27.74 cm for cut fibers 1 meter in length.

Claim 65. (Amended) A non-woven material according to claim 48, having a hydrophobicity, as measured by the WRC test as defined under the Methods section herein, corresponding to [at least] about 9 cm to about 10.5 cm at a basis weight of the non-woven material of 23 g/cm².